

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>CHARLES EVANS and KAREN EVANS, h/w,</b>	<b>:</b>	<b>CIVIL ACTION</b>
<b>as Parents and Personal Representatives of the</b>	<b>:</b>	
<b>Estate of Phillip Evans, Deceased and</b>	<b>:</b>	
<b>MELISSA SMITH</b>	<b>:</b>	
	<b>:</b>	
	<b>:</b>	
<b>v.</b>	<b>:</b>	
	<b>:</b>	
<b>AMERICAN HONDA MOTORS CO., INC.,</b>	<b>:</b>	
<b>and HONDA OF AMERICA MFG., INC.</b>	<b>:</b>	<b>NO. 00-CV-2061</b>

**MEMORANDUM ORDER**

Presently before the Court is Plaintiffs' Motion to Compel More Complete Responses to Discovery ("Motion to Compel") (Dk. No. 38) and Defendants' response thereto. On August 11, 2003, Plaintiffs filed a Motion to Compel seeking to compel Defendants to provide more complete discovery responses to Interrogatories and Requests for Production which requested documentation relating to Honda vehicles, including but not limited to Honda Civics, manufactured since 1990. (Dkt. No. 35). In their supporting memorandum of law, Plaintiffs alleged that Defendants violated Federal Rule of Civil Procedure Rule 26.1 by simply limiting their interrogatory responses to relevant "generation[s]," or Honda Civics for the 1992 to 1995 model years. On October 30, 2003, this Court entered a Memorandum Order denying the Plaintiffs' Motion to Compel for failure to comply with Local Rule of Civil Procedure 26.1(f) (the "October 30th Order").

On November 7, 2003, Plaintiffs filed a second Motion to Compel More Complete Responses to Discovery. (Dkt. No. 38). After review, we find that the only discernable difference between the Motion to Compel filed on August 3, 2003 and the one filed on

November 7, 2003 is that the latter contains a stipulation signed by Plaintiffs' counsel stating: "[t]he parties, after reasonable effort, have been unable to resolve the dispute referenced in Plaintiffs' Motion to Compel Discovery." For the reasons that follow, Plaintiffs' Motion to Compel (Dkt. No. 38) is DENIED.

The plain language of Eastern District of Pennsylvania Local Rule of Civil Procedure 26.1(f) provides: No motion or other application pursuant to the Federal Rules of Civil Procedure governing discovery or pursuant to this rule shall be made unless it contains a certification of counsel that the parties, after reasonable effort, are unable to resolve the dispute." (emphasis added). As we stated in the October 30 Order: "Rule [26.1] contemplates that counsel will make 'reasonable efforts' to work together to resolve discovery disputes." Crown Cork & Seal Co. v. Chemed Corp., 101 F.R.D. 105, 106 (E.D. Pa. 1984) (denying motion to compel appearance at a deposition because defendant failed to comply with Local Rule 26.1(f)). We also explained that Local Rule 26.1(f) "imposes a substantial obligation on counsel to resolve discovery problems before bringing them to the attention of the court." Disantis v. Kool Vent Aluminum Products, Inc., No. Civ. A. 97-5434, 1998 WL 472753, at \*1 (E.D. Pa. Aug. 12, 1998) (denying plaintiff's motion for order compelling discovery pursuant to Federal Rule of Civil Procedure 37(a) because plaintiff failed to comply with Local Rule 26.1(f)). We therefore cautioned that before bringing a discovery dispute to the Court's attention, "[t]here must exist such serious differences between counsel that further efforts of negotiation are pointless." Id. (citing Crown Cork, 101 F.R.D. at 106-7). Further, it is clear that "the duty prescribed by Local Rule [26.1(f)] is a professional obligation which counsel owe to this court." Crown Cork, 101 F.R.D. at 107.

The Memorandum Order dated October 30, 2003 made it abundantly clear that the duty imposed by Local Rule 26.1 extends beyond merely filing a certificate stating: “[t]he parties, after reasonable effort, have been unable to resolve the dispute referenced in Plaintiffs’ Motion to Compel discovery.” To be sure, we reiterate that the purpose of Local Rule 26.1 is to impose a substantial obligation on the parties to make strong efforts to resolve discovery disputes before rushing to the Court for intervention; that it, there must exist such serious differences between counsel that further efforts of negotiation are pointless. Plaintiffs, however, still make no assertion, in either in their current Motion to Compel or its supporting memorandum of law, that their counsel made any effort, much less a “reasonable effort,” to resolve the alleged discovery dispute. Again, Plaintiffs’ motion simply states that a discovery dispute exists because, in response to Plaintiffs’ request for documentation relating to Honda vehicles, including but not limited to Honda Civics, manufactured since 1990, Defendants “limited its interrogatory responses solely to what it termed the relevant ‘generation[s],” or Honda Civics for the 1992 to 1995 model years. (Dkt. No. 38).

Most importantly, counsel for Defendants advise that Plaintiffs’ counsel did not even call Defendants’ counsel after the entry of the October 30<sup>th</sup> Order in an effort to determine whether the discovery dispute could be resolved. See Defendants Memorandum of Law in Response to Plaintiffs’ Motion to Compel More Complete Responses to Discovery (Dkt. No. 39), at 3. Indeed, short of drafting a one sentence stipulation, it appears that Plaintiffs’ counsel made no

effort to meet the standard set forth in Rule 26.1 or comply with the Court's October 30<sup>th</sup> Order. Plaintiffs' efforts, more specifically the lack thereof, are once again insufficient to satisfy their obligations under Local Rule 26.1(f). Therefore, Plaintiffs' Motion to Compel (Dkt. No. 28) is denied.

For the foregoing reasons, Plaintiffs' Motion to Compel More Complete Responses to Discovery is DENIED.

**ORDER**

AND NOW, this 26th day of November 2003, upon consideration of Plaintiffs' Motion to Compel More Complete Responses to Discovery (Dkt. No. 38) and Defendants' response thereto, it is hereby ORDERED that Plaintiffs' motion is DENIED.

BY THE COURT:

Legrome D. Davis, J.